



Skagit County Planning & Development Services

DALE PERNULA, AICP *Director*

JACK MOORE, CBCO *Building Official*

Memorandum

To: Board of County Commissioners
From: Dale Pernula, AICP, Director
Date: April 10, 2014
Re: Annual Comprehensive Plan Amendments 2013 Docket

Background

The Growth Management Act provides that “each comprehensive land use plan and development regulations shall be subject to continuing review and evaluation”¹ and requires Skagit County to annually accept petitions for amendments or revisions to our Comprehensive Plan, in addition to the periodic update, which is next due in 2016.² Skagit County implements this requirement through Skagit County Code Chapter 14.08, which describes the process for such amendments. The Board of County Commissioners has not yet acted on the amendments submitted for 2013.

Process Summary

Briefly, SCC Chapter 14.08 provides that:

- Petitions for amendments are accepted until the last business day of July of each year.
- The Department analyzes the petitions against the docketing criteria in SCC 14.08.030 and issues a recommendation to the Board.
- The Board holds a public hearing to allow applicants and the public to comment on the recommendation.
- The Board decides which petitions to include in the docket at a subsequent meeting.
- The petitions included in the docket move forward for SEPA analysis, legal review, and subsequent review by the public, Planning Commission, and the Board through the process described in SCC 14.08.080-090.

The Board’s decision to include a proposed amendment in the docket is procedural and does not constitute a decision as to whether the amendment will ultimately be approved. Similarly, a decision by the Board to exclude a petition terminates that petition without prejudice to the applicant or the proposal. The applicant may request a refund of the unused portion of any application fees, and may request the same or similar amendment be considered as part of a future amendment or review cycle.³

¹ RCW 36.70A.130(1)(a).

² RCW 36.70A.130(2)(a).

³ SCC 14.08.030(4)(a) and (b).

2013 Petitions

Skagit County received the following timely petitions to amend the Comprehensive Plan:

- NC-1, City of Anacortes, PL12-0258, petition to expand the City's Urban Growth Area (this petition was deferred from the 2012 docket)
- NC-2, City of Sedro-Woolley, PL13-0299, petition to change the City's Urban Growth Area
- NC-3, Yong Ho Kim, PL13-0302, petition to redesignate 2.65 acres from Rural Reserve to Small-Scale Business
- NC-4, Harold Mehrer, PL13-0298, petition to redesignate a 76.7-acre parcel with split zoning from Secondary Forest NRL/Industrial Forest NRL to Secondary Forest-NRL

Additionally, the Department proposes the following County-initiated amendment:

- C-1, Bayview Ridge, to reconfigure the Bayview Ridge Subarea to implement the Port of Skagit's recommended changes to the Airport Environs Overlay, move industrial zoning to the eastern portion of the subarea, reduce the residential zoning, and shrink the urban growth area boundary.

Department Recommendations on Docketing

SCC 14.08.030 requires the Department to make a recommendation to the Board as to which of the petitions the Department should be included in the docket. The Department must consider each of the following factors ("the docketing criteria") in making its recommendation:

- (a) The proposed amendment, in light of all proposed amendments being considered for inclusion in the year's docket, can be reasonably reviewed within the staffing and operational budget allocated to the Department by the Board;
- (b) A proposed amendment, to be adopted, would not require additional amendments to the Comprehensive Plan or development regulations not addressed in the petitioner's application, and is consistent with other goals, objectives and policies adopted by the Board;
- (c) A proposed amendment raises policy, land use, or scheduling issues that would more appropriately be addressed as part of an ongoing or planned work program, or as part of a regular review cycle;
- (d) Some legal or procedural flaw of the proposal would prevent its legal implementation;
- (e) The proposal lacks sufficient information and/or adequate detail to review and assess whether or not the proposal meets the applicable Comprehensive Plan designation criteria.⁴

NC-1. City of Anacortes

The City of Anacortes submitted this proposal during the 2012 docket cycle and the Board docketed the proposal, but the Board deferred final action on the proposal in the 2012 docket cycle. In a letter dated December 23, 2013, the City requested the petition be withdrawn. Because the

⁴ SCC 14.08.030(3)(e)(i) provides that "A determination that the proposal contains sufficient information and adequate detail for the purpose of docketing does not preclude the Department from requesting additional information at any time necessary later in the process."

Department believes the Board will accept that request, we have not performed additional analysis at this time. The Department recommends the Board **exclude** this petition from the docket.

NC-2. City of Sedro-Woolley

The City of Sedro-Woolley proposes three changes to its urban growth area boundary.

NC-2, Part 1 – UGA Boundary Shift

This part of the petition would modify the UGA to add eight parcels (27.73 acres) north of the current city limits and remove 58 parcels (approximately 28 acres) from the UGA to the east and southwest of the city limits.

As shown on the map below, the parcels the City proposes to add to the UGA are P36413, P36414, P126554, P39339, P39315, P39320, P39319, and P39314. The parcels proposed for removal are:

| | | | | | | |
|--------|--------|--------|---------|--------|--------|--------|
| P39542 | P39535 | P81439 | P39544 | P80303 | P64946 | P40388 |
| P80286 | P99676 | P81440 | P39540 | P80304 | P81434 | P39761 |
| P80287 | P39531 | P81441 | P39768 | P81480 | P81435 | P64939 |
| P80288 | P39534 | P81442 | P104466 | P81481 | P81436 | P81484 |
| P80289 | P81472 | P64944 | P104465 | P81482 | P81437 | |
| P80290 | P81473 | P64945 | P104464 | P81483 | P80300 | |
| P80292 | P81475 | P64943 | P39769 | P40382 | P81477 | |
| P80295 | P81476 | P64942 | P80301 | P40386 | P81479 | |
| P80296 | P81438 | P39539 | P80302 | P40385 | P40389 | |

The Department has analyzed Part 1 against the docketing criteria as follows:

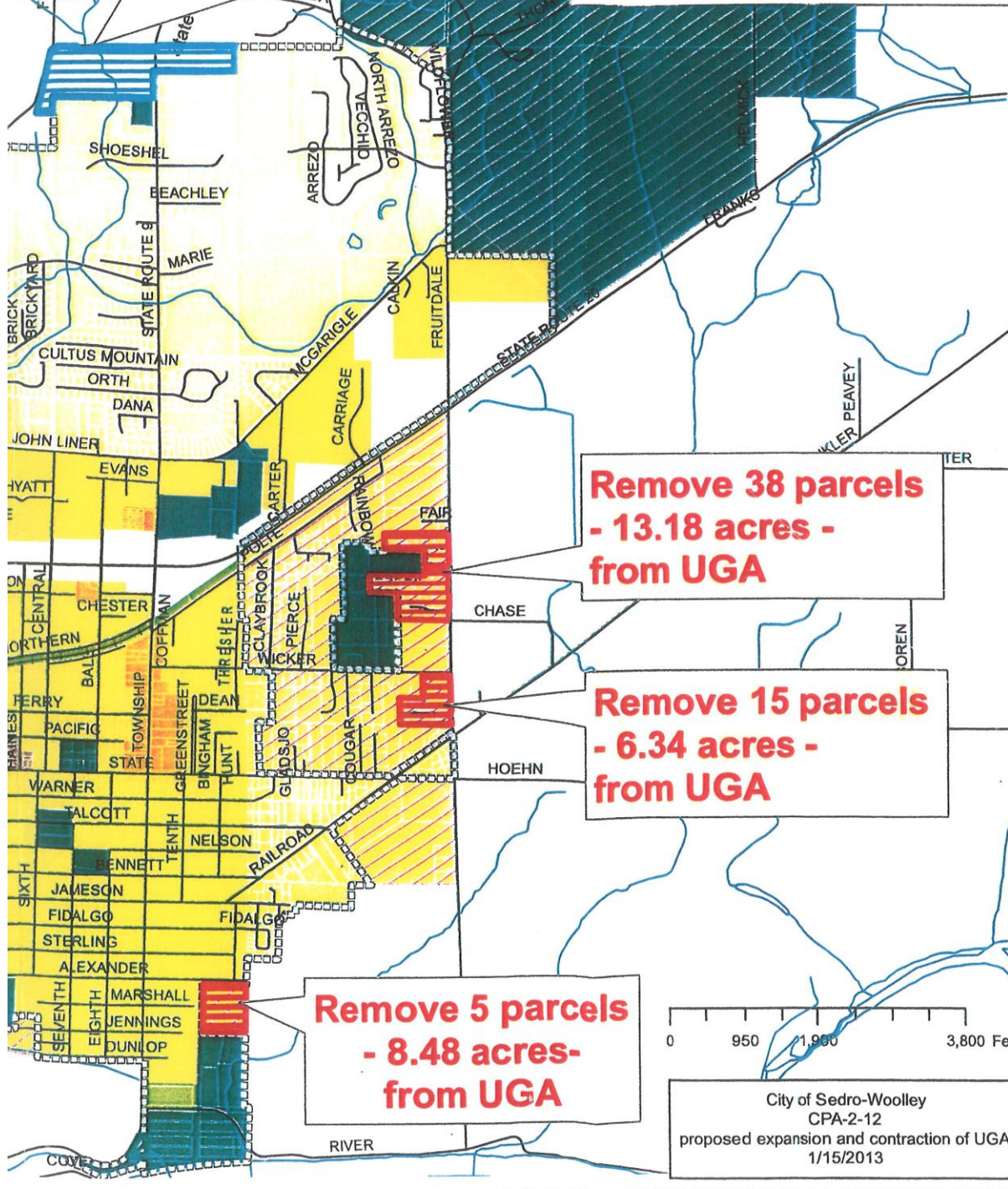
- (a) The Department believes it can reasonably review the petition with current resources.
- (b) The Department does not believe this petition would require additional amendments to the Comprehensive Plan or development regulations.
- (c) The proposal is appropriate to be addressed by the annual amendment process.
- (d) The Department is not aware at this time of a legal or procedural flaw in the proposal.
- (e) At this time, the proposal does not contain sufficient information. UGA modifications are subject to the requirements of SCC 14.08.020(5)(b), which require documentation that the City needs additional residential capacity to meet its current population allocation under CPP 1.1. The petition can be docketed, but the Department will require additional information from the applicant later in processing.

This proposal seeks to add and remove a like amount of residential acreage. Sedro-Woolley asserts that the area proposed to be added is much more suitable for urban residential development than the area proposed to be removed, which is mostly developed at lower-than-urban densities and without urban services such as sewer. If the County determines through further review of this proposal that the 28 acres proposed for removal should remain within the UGA, then the proposed 28-acre addition should instead be considered as part of the 2016 Comprehensive Plan update process in light of any new urban population allocation to Sedro-Woolley.

The Department recommends the Board **include** Part 1 of the petition in the docket.

**27.73 acres recommended
for inclusion in UGA
- 8 parcels added -**

Attachment A Planning Commission Findings of Fact

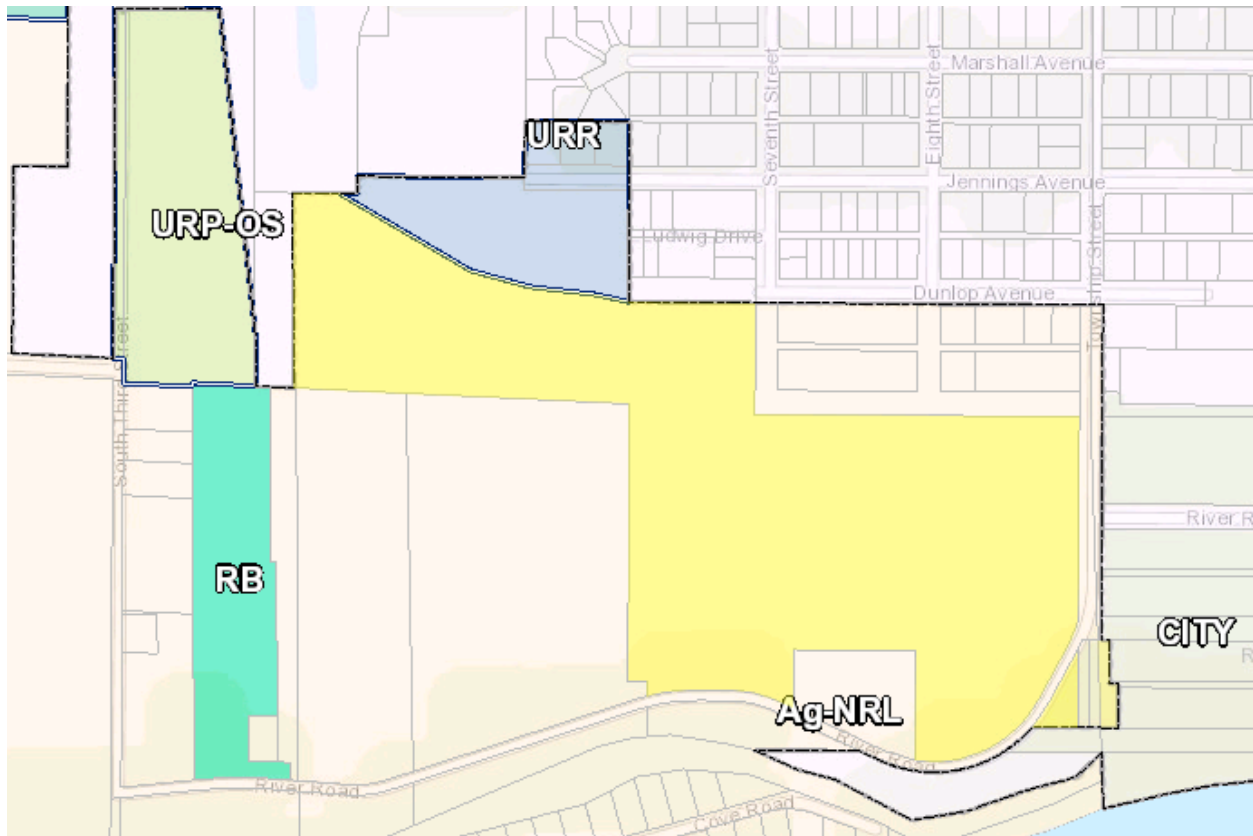


NC-2, Part 2 – UGA Boundary Expansion

This part of the petition would add two different areas into the City’s UGA. The County has divided this part into subparts to analyze each separately.

Part 2A would add parcel P37631 (34.3 acres) owned by the City of Sedro-Woolley and currently zoned Ag-NRL into the City’s UGA as Open Space zoning. It would also add parcel P76300, owned by Skagit County, and two small pieces of unopened right-of-way on Township Street, which together total approximately .6 acres. Sedro-Woolley would like to use these parcels to locate a citywide drainage facility.

On the map below, parcels P37631 and P76300 are shown in yellow.



The Department has analyzed part 2A against the docketing criteria as follows:

- (a) Due to the issues described below in (d) and (e), the Department may not be able to process this petition before the end of the year.
- (b) This petition may require additional code amendments.
- (c) This petition probably does not raise additional issues more appropriate for the periodic update.
- (d) The petition poses legal problems to its adoption. Parcels P37631 and P76300 are zoned Ag-NRL. SCC 14.08.020(5)(b)(x) provides that a UGA expansion may not include “areas that are designated as natural resource lands (agricultural, forest, or rural resource)” except in certain circumstances, e.g. the jurisdiction has a TDR program in place and an agreement with the property owner to allow continuation of the natural resource activity. Sedro-Woolley does not have a TDR program. De-designation of prime agricultural land is generally not supportable under GMA. At the City’s request, Skagit County once before

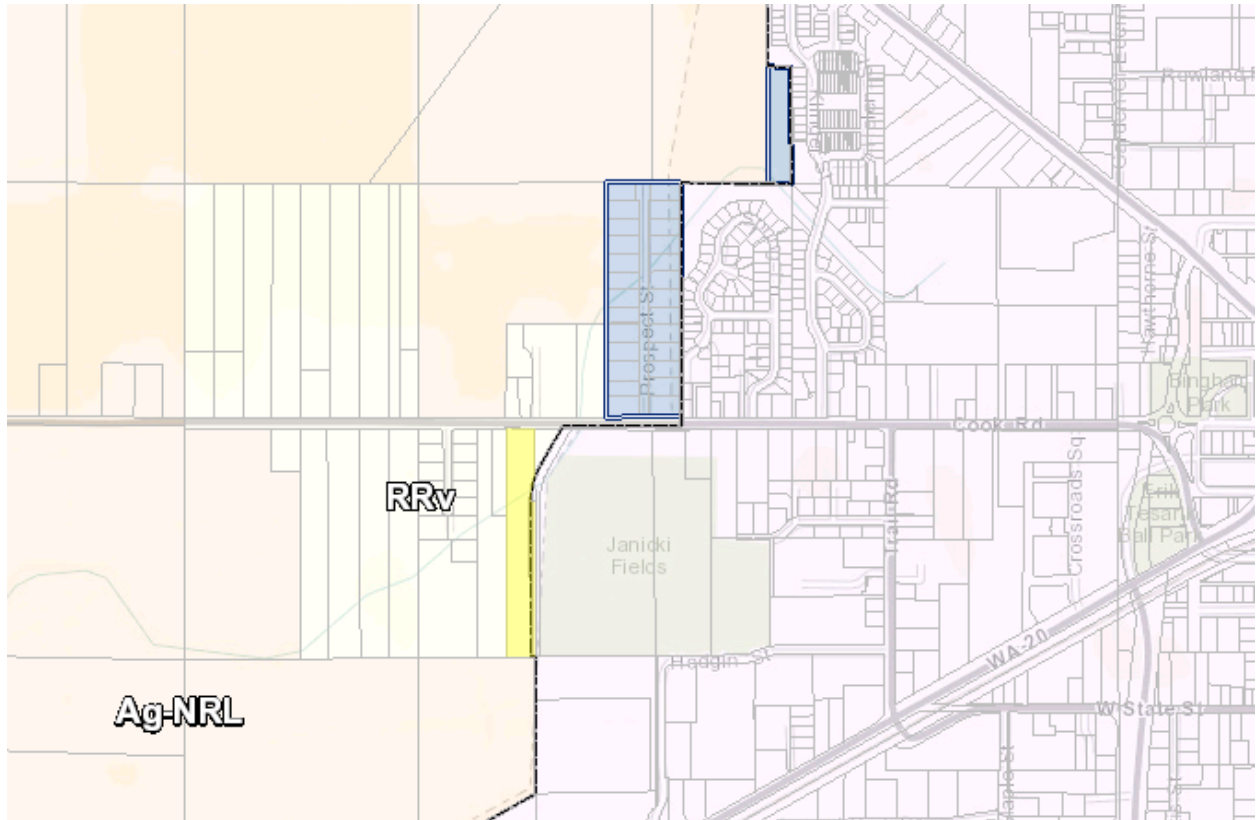
added the subject property (and additional agricultural land to the west) to the City's UGA (Ordinance 16550, June 1, 1997, adopting the Comprehensive Plan). However, the Western Washington Growth Management Hearings Board found the UGA boundary non-compliant and required the County to remove the land from the UGA because of lack of showing of need and because the land met the designation criteria for Ag-NRL (Final Decision and Order, Case No. 97-02-0060c, January 23, 1998). There does not appear to be any significant change in circumstances since that time.

- (e) At this time, the Department believes the proposal contains sufficient information for the purpose of docketing. UGA modifications are subject to the requirements of SCC 14.08.020(5)(b), which may require additional information from the applicant later in processing. The County may also require additional information about the City's proposed drainage project in order to adequately address the City's needs while preserving agricultural land.

It may be possible to accomplish Sedro-Woolley's goals without adding all of the agricultural land to the City's UGA. For example, a portion of the parcel apparently is not, and has not been used for agricultural activities, and it might be possible to add that to the City's UGA without the rest of the acreage. Alternatively or additionally, the County could amend the development code to explicitly permit municipal utility projects in Ag-NRL, or to permit municipal drainage facilities as essential public facilities. The Growth Management Hearings Board has upheld siting municipal infrastructure in agricultural lands in limited circumstances. These issues are most appropriately explored during the comprehensive plan amendment process.

The Department recommends the Board **include** part 2A of the petition in the docket.

Part 2B would add parcel P37311 (4.3 acres west of Janicki Fields), currently zoned Rural Reserve, into the City's UGA as Public zoning. The parcel is owned by the City of Sedro-Woolley; a small fraction is already inside the city limits. On the map below, parcel P37311 is shown in yellow.



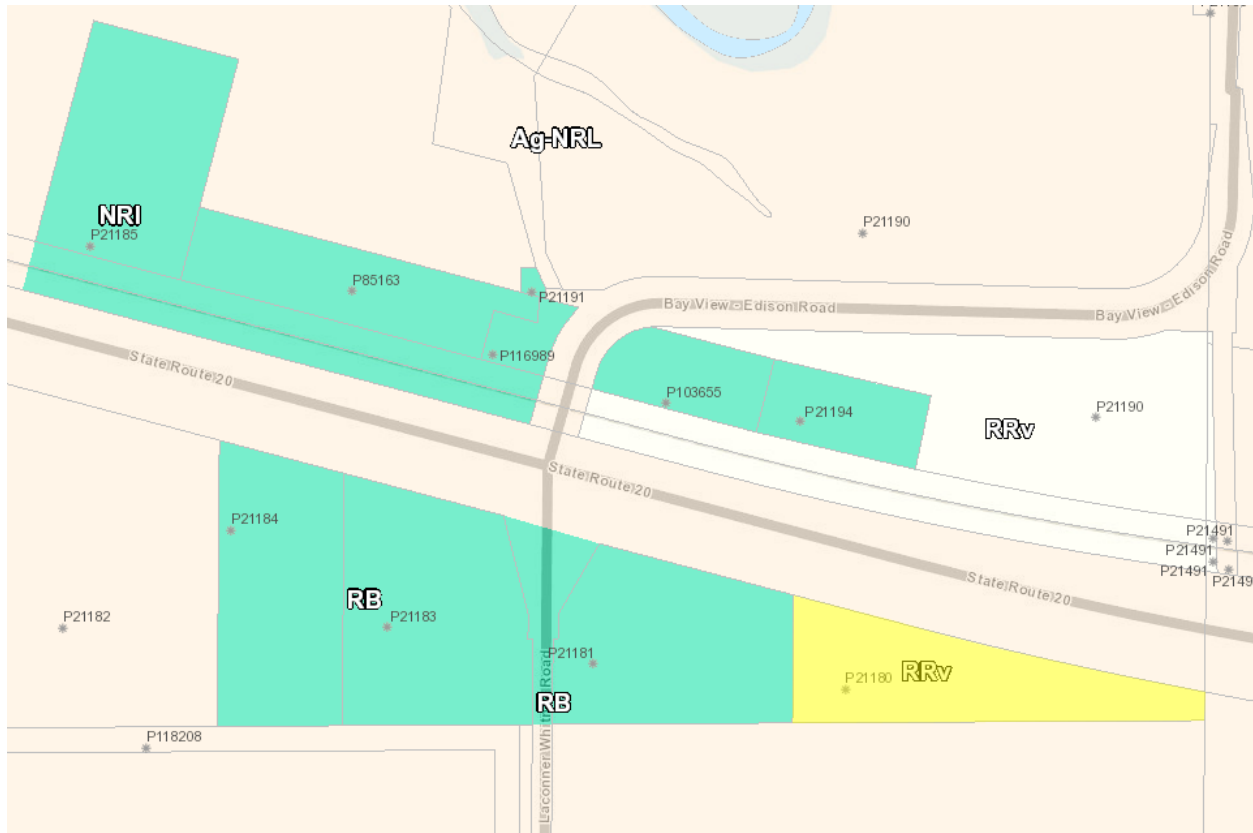
The Department has analyzed Part 2B against the docketing criteria as follows:

- (a) This is an addition of a single parcel to the UGA, and can be reasonably reviewed with the Department's current resources.
- (b) The Department does not believe this petition would require additional amendments to the Comprehensive Plan or development regulations.
- (c) The proposal is appropriate to be addressed by the annual amendment process.
- (d) There are no legal or procedural flaws in the proposal.
- (e) At this time, the Department believes the proposal contains sufficient information. UGA modifications are subject to the requirements of SCC 14.08.020(5)(b), which may require additional information from the applicant later in processing.

The Department recommends the Board **include** Part 2B of the petition from the docket.

NC-3. Yong Ho Kim

This petition proposes to redesignate P21180, 2.65 acres located 480 feet east of the intersection of La Conner-Whitney Road and SR-20, from Rural Reserve to Small-Scale Business. On the map below, the subject parcel is shown in yellow.



The Department has analyzed the proposal against the docketing criteria as follows:

- (a) This is a rezone of a single parcel, and can be reasonably reviewed with the Department's current resources.
- (b) The Department does not believe this petition would require additional amendments to the Comprehensive Plan or development regulations.
- (c) The proposal is appropriate to be addressed by the annual amendment process.
- (d) There are no legal or procedural flaws in the proposal.
- (e) The proposal contains sufficient information.

The Department recommends the Board **include** this petition in the docket.

The property is in an area characterized by Private Forest Land Grade (PFLG) soils 1-5. Overall, it meets the parcel size criterion for designation as IF-NRL (parcel size of 40 acres or greater). However, the northern portion of the property is designated SF-NRL consistent with the designation policy that “Secondary Forest lands are derived from initially designated Industrial Forest lands and are located primarily within a ¼ mile band at the perimeter of Industrial Forest lands...”⁵ There is no rationale in the Comprehensive Plan for further extending the SF-NRL line to include the entire parcel.

The applicant’s main argument is that a power line corridor that runs through the property precludes forestry on a significant portion of the property. This may be true, but other properties in IF-NRL also have power line corridors running through them, yet that is not identified in the Comprehensive Plan as a reason for exclusion from IF-NRL. Finally, the parcel is immediately adjacent to a large number of 20-acre parcels in IF-NRL known by their ownership as “Sanfi Acres.” These 20-acre parcels (which do meet the size criteria for SF-NRL) were evaluated for possible redesignation to SF-NRL through the 2005 Comprehensive Plan Update and again in 2009. The Board of County Commissioners ultimately decided not to redesignate the properties to SF-NRL, reflecting a strong policy commitment by Skagit County to protect its designated forestlands.

The Department recommends the Board **exclude** this petition from the docket.

⁵ CP Policy 4B-1.3.

C-1. Bayview Ridge

On March 18, 2014, the Board directed the Department by motion to prepare a plan to reconfigure the Bayview Ridge Subarea to implement the Port of Skagit's recommended changes to the Airport Environs Overlay, move industrial zoning to the eastern portion of the subarea, reduce the residential zoning, and shrink the urban growth area boundary. These changes require significant rewrites to the Bayview Ridge Subarea Plan, which is a component of the Comprehensive Plan, and associated development regulations.

The Department has analyzed the proposal against the docketing criteria as follows:

- (a) The Board has indicated this matter is high-priority, and the Department can handle within its current resources.
- (b) The proposal encompasses the entire Subarea Plan and associated Bayview Ridge development regulations, and is consistent with other portions of the Comprehensive Plan and Board goals.
- (c) The proposal fits into this amendment cycle.
- (d) No flaws are apparent that would prevent implementation.
- (e) The designation criteria do not apply to this proposal.

The Department recommends the Board **include** this petition in the docket.

How to Comment

The public may submit written comments via email to pdscomments@co.skagit.wa.us (preferred) or via US mail. All paper comments must be submitted on 8½" x 11" paper to the address below:

Skagit County Planning & Development Services
re: Public Comments on CPA 2013 Docket
1800 Continental Place
Mount Vernon, WA 98273

All comments must be received by Thursday, May 1, 2014, at 4:30 p.m. and include (1) your full name, (2) your mailing address, and (3) the name of the proposal or project you are commenting on. Comments not meeting these requirements will not be considered.

You may also comment in person at the public hearing Tuesday, April 29, 2014, at 9:30 a.m. at the Commissioners Hearing Room, 1800 Continental Place, Mount Vernon. Public hearing testimony is usually limited to three minutes, so written comments are preferred.

For More Information

Please visit the project website at www.skagitcounty.net/planning (click on "Comprehensive Plan Amendments 2013 Docket").